

Federal Appeals submission
by Plaintiff

I TYPED MINE!!

aweb1
06-1487

INFORMAL BRIEF

1. Jurisdiction (for appellants only)

A. What is the name of the court from which you are appealing?

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAR

B. What is the date(s) of the order or orders you are appealing?

APRIL 10, 2006

2. Timeliness of appeal (for prisoners only)

When did you give your notice of appeal to a prison officer for mailing to the United States District Court? Enter the exact date: N/A

3. Issues on Appeal

Use the following spaces to tell the United States Court of Appeals for the Fourth Circuit why the judgment under review should be affirmed, reversed, or vacated and remanded. Appellants must provide a brief summary of the facts and arguments that support their position that the judgment under review was wrong. Appellees may rely on the facts and law stated in that judgment or may advance alternative grounds for affirmance or dismissal. The parties may cite case law, but it is not required.

Issue 1.

THE DISTRICT COURT ERRED IN FINDING SMITH'S INTERNET PUBLICATION TO CONSTITUTE "NEWS REPORTING OR NEWS COMMENTARY," AND PRIVILEGED UNDER THE LANHAM ACT.

Supporting Facts and Argument.

SMITH'S PUBLICATION LACKS ANY OF THE CONTROLS OR EDITORIAL SAFEGUARDS OF 'STANDARD' JOURNALISM, AND IS CLEARLY PUBLISHED WITH A DEFAMATORY AND SLANDERING PURPOSE. BLOGGING IS NOT MERELY "NEWS REPORTING OR NEWS COMMENTARY."

Issue 2.

THE DISTRICT COURT ERRED IN FAILING TO INCLUDE IN ITS "FUNCTIONAL ANALYSIS" OF SMITH'S PUBLICATION THE ACTIVITY THAT ACCOMPANIED SAID PUBLICATION, E.G. THREATS OF CRIMINAL PROSECUTION, PICKETING, COUNTERPROTESTS AND A GENERAL INTENT UNDOUBTEDLY TO INJURE BILZIK & ITS PRINCIPALS.

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Supporting Facts and Argument.

SMITH'S ACTIVITIES AGAINST BIDZINK INCLUDE COUNTERSUITS
WITH NO MERIT WHATSOEVER, THREATS TO PICKET, THREATS TO
INVOLVE LAW ENFORCEMENT IN BIDZINK'S BUSINESS, AND
PUBLICATION OF ADDITIONAL LAPPING MATERIAL. SMITH
OFFERED TO REMOVE THE PUBLICATION IN RETURN FOR
MONEY. NO "JOURNALIST" ENGAGED IN SUCH BEHAVIOR.
Issue 3.

Supporting Facts and Argument.

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06-1487**4. Relief Requested**

What do you want the Court of Appeals to do? Identify exactly the relief you seek. (1) REVERSE FINDING OF THE DISTRICT COURT THAT SIRTIS PUBLICATION IS "NEWS REPORTING OR NEWS COMMENTARY"; (2) FIND LAMM ACT VIOLATION AND GRANT

5. Prior Appeals (for appellants only) B, 121K IN INJUNCTION AND DAMEA. Have you filed other appeals in this court? ☐ Yes ☒ No

B. If you checked YES, what are the case names and docket numbers for those appeals and what was the ultimate disposition of each?

Kevin M. Elwell
Signature
[Notarization Not Required]

KEVIN M. ELWELL
[Please Print Your Name Here]

CERTIFICATE OF SERVICE

You must serve your papers on appeal on all persons served in the lower court case and complete the following certification:

I certify that on 5/22/06 I mailed a complete copy of this Informal Brief and all attachments to all parties, addressed as shown below.

Kevin M. Elwell
Signature
[Notarization Not Required]

[List here each party's name and complete mailing address]

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